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Attorneys for Respondents

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

DAVID CARLTON BROWN,

Petitioner,

v.

MATTHEW CATE, et al.,

Respondents.

08-0017 JM (NLS)

**REQUEST FOR FIRST
ENLARGEMENT OF TIME TO
FILE RESPONDENT'S RENEWED
MOTION TO DISMISS HABEAS
PETITION (28 U.S.C. § 2254)**

I, Erika Hiramatsu, declare the following under penalty of perjury under the laws of the United States:

This matter was previously assigned to deputy attorney general Stephanie Chow. It is my information and belief that Ms. Chow was out of the country from August 10 through August 24, 2008, and did not return to the office until August 25, 2008. On September 1, 2008, Ms. Chow transferred to the San Diego County District Attorney's Office on temporary assignment.

As of September 2, 2008, I am the deputy attorney general assigned to prepare Respondent's renewed Motion to Dismiss Petitioner's habeas petition pursuant to this Court's

1 August 5, 2008, Order in the above-entitled matter.

2 This is Respondent's first request for enlargement of time to file Respondent's Renewed
3 Motion to Dismiss, which is due September 19, 2008. I respectfully request time to file the Motion
4 be enlarged twenty-one (21) days to October 6, 2008, for the following reasons:

5 I was not involved in Petitioner's direct appeal and have no prior familiarity with his case.
6 While I have discussed the case with Ms. Chow, the volume of documents in the record, and the
7 manner in which they were written, will require additional time for review.

8 In addition to this case, I have been working on the following assignments: Respondent's
9 opposition to Petitioner's application for authorization to file a second or successive 28 U.S.C.
10 §2254 habeas corpus petition in Burton v. Adams, No. 08-71762 (9th Cir., filed Sept. 8, 2008);
11 Respondent's Motion to Dismiss Petition in Saenz v. Secretary, No. 08-0566 WQH (JMA) (S.D.
12 Cal., filed Sept. 10, 2008); and Respondent's Answer to Petition in Russell v. Martel, No. EDCV
13 08-963 AG (FFM) (C.D. Cal., due Sept. 20, 2008).

14 Petitioner appears to have been released on parole in May 2008. An enlargement of time
15 is required to allow sufficient time for drafting as well as supervisory review, revision, and clerical
16 processing.

17 For these reasons, I respectfully request the time for filing Respondent's Renewed Motion
18 to Dismiss be enlarged to and including October 6, 2008.

19 Dated: September 15, 2008

20 Respectfully submitted,
21 EDMUND G. BROWN JR.
Attorney General of the State of California
22 GARY W. SCHONS
Senior Assistant Attorney General
23 KEVIN VIENNA
Supervising Deputy Attorney General
24

25
26 s/Erika Hiramatsu
ERIKA HIRAMATSU
Deputy Attorney General
27 Attorneys for Respondents

28 80282413.wpd
SD2008800562

CERTIFICATE OF SERVICE BY U.S. MAIL

Case Name: **Brown v. Cate**
No.: **08CV0017 JM (NLS)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 15, 2008, I served the following documents:

**REQUEST FOR FIRST ENLARGEMENT OF TIME TO FILE
RESPONDENT'S RENEWED MOTION TO DISMISS HABEAS PETITION;
ORDER GRANTING RESPONDENT'S REQUEST FOR ENLARGEMENT
OF TIME**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

David Carlton Brown
7276 Gatewood Lane
San Diego, CA 92104

In Pro Se

Electronic Mail Notice List

I have caused the above-mentioned document(s) to be electronically served on the following person(s), who are currently on the list to receive e-mail notices for this case: None

Manual Notice List

The following are those who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing): **David Carlton Brown**, at the above-named address.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 15, 2008, at San Diego, California.

Bonnie Peak

Declarant



Signature